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RUEHLP/AMEMBASSY LA PAZ MAY 4240
RUEHMN/AMEMBASSY MONTEVIDEO PRIORITY 9179
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SUBJECT: LABOR LAW REVISIONS CRITICIZED

REF: A. LIMA 240

[1](#)B. LIMA 1805

[1](#)1. (U) Summary: The congressional labor committee on May 8 submitted a revised draft of the General Labor Law to the full congress. Almost everyone involved in the process -- political parties, business groups, labor unions and the Minister of Labor -- found something to criticize, although when pressed, many admitted that a bad law was better than no law at all. The criticisms centered on proposed language defining the rights of workers fired without cause: businesses claimed the changes would reduce labor flexibility and increase unemployment; unions called the revisions a step backward in protecting labor rights. Lost in the hubbub were articles regarding collective bargaining and subcontracting -- which remained unchanged from previous drafts -- and questions about the GOP's ability to enforce whatever legislation emerges. The General Labor Law has been in committee for six years; its reception in congress suggests a long journey towards passage ahead. End Summary

Criticism of the General Labor Law

[1](#)2. (U) Labor committee president Aldo Estrada submitted the draft General Labor Law to the full congress May 8. Progress on the bill broke down in December 2005 when committee member Luis Negreiros of the ruling APRA party sought to dramatically strengthen labor rights (see reftel A). Business groups and some committee members argued that Peru already enjoys some of the strongest worker protections in the region, and more regulations would only choke off economic growth. In March, Estrada opened public hearings to seek compromise on three core issues: the rights of fired workers, methods of sub-contracting, and sector-wide bargaining for unions.

[1](#)3. (U) The results pleased few. Congressional parties across the board, including APRA, criticized the revisions, and four congressmen representing four different parties worked together to call public hearings on the law's shortcomings. One of the four, Carlos Bruce of the

Parliamentary Alliance, complained the law reduced the labor flexibility necessary to generate growth and did nothing for the unemployed or for workers in the informal economy. Minister of Labor Susanna Pinilla said the law, in some places, was "incoherent," disrupted the equilibrium between business and labor, and gave judges too much discretion to decide complicated labor issues.

¶4. (U) Criticism focused on Article 165. The original draft allowed workers fired without cause to choose between returning to their old jobs or receiving monetary compensation. The revisions took the choice away from workers and placed it in the hands of the judiciary. Jaime Caceres Sayan, president of Peru's largest business association, said the change worsened an already bad law, making it impossible -- in practice -- to discharge workers, and threatened to overwhelm an already dysfunctional court system. On the other hand, Juan Jose Gorriti, the former head of Peru's largest labor union, complained the commission was taking away employee rights that had already been agreed to in public hearings. Gorriti, in private, said that organized labor has few friends in the congress, and the debate at its core is about who will share in the fruits of Peru's economic expansion.

In Defense of the General Labor Law

¶5. (U) Estrada responded to the criticisms by pointing out the law included more than 438 articles covering the gamut of labor protections, and serious disagreement existed on less than "15 percent" of the text. Estrada complained that all sides in the debate were criticizing the law without offering compromises necessary for the bill to move forward, and he found it "incomprehensible" that a country could go so long without basic regulations governing employment. Estrada also defended Negreiros by saying the draft represented the views of all committee members, not just the work of Negreiros.

¶6. (U) Congressional staffers, however, say that Negreiros is, in fact, the driving force behind efforts to strengthen labor protections. According to these sources, Negreiros introduced language that would have allowed all unions in Peru to negotiate with businesses sector-wide, instead of by individual enterprises. Negreiros also pushed to eliminate the means by which employers can subcontract work. These changes would have had a far-reaching impact on labor conditions in Peru: the use of sub-contractors, for example, was the central issue in the recently concluded mining strike (see reftel B). Congressional insiders say Negreiros was pressed by senior APRA leaders to drop his demands, and the articles on sub-contracting and collective bargaining remain unchanged.

The Real Problem: The Courts

¶6. (U) Pinilla's observation that Peruvian courts are a poor venue for resolving labor issues resonated with all sides. Both business and labor groups fear submitting disputes to the overworked, cumbersome, and corrupt labor courts, which are part of the judicial branch. Even the simplest cases take, on average, five to six years to resolve -- and sometimes much longer. In 1992, for example, the National Confederation of State Workers filed suit to protest the firing of 200 workers by the Ministry of Labor as part of a general belt-tightening. The union won the case -- in 2006. The long delays inherent in the judicial process explain why businesses, unions, and the MOL oppose language in the General Labor Law that would increase the role of the judiciary in labor arbitration.

The Importance of the Debate

¶7. (U) Comment: Contacts within the MOL predicted the congressional debate would be prolonged, although the labor committee is respected for at least trying to bring order to the briar patch of labor legislation that has grown unchecked since the Fujimori administration. Nearly everyone following the bill sees the General Labor Law as creating a framework that will affect labor discussions past the next presidential elections. At the same time, the GOP is facing a tide of rising expectations from workers and businessman who are tired of the ad hoc solutions to labor disputes offered by the current laws. A long view on the General Labor Law is necessary because progress is likely to remain glacial. Post has scheduled follow-up meetings with Estrada, Negreiros, union leaders, business groups, congressional staffers, and the Ministry of Labor to learn what additional changes may lie in store. End Comment
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